UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,485	07/26/2001	Tetsuya Ueno	KUD.042	6277

21254 7590 03/02/2007

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

EXAMINER	
MILLS, DONALD L	
ART UNIT	**PAPER NUMBER**
2616	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/912,485	UENO, TETSUYA	
	Examiner	Art Unit	
	Donald L. Mills	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 December 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 6 and 7, the claims specify *said second control section* (For example, see claim 6, line 5.) The term "said second control section" lacks proper antecedent basis.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al. (US 6,795,867), hereinafter referred to as Ma, in view of Boudreau et al. (US 6,788,692 B1), hereinafter referred to as Boudreau.

Regarding claims 1, 8, and 20, Ma teaches a Gatekeeper **108** connected to an H.323 network, which comprises:

A first message receiving station which receives a gatekeeper discovery message from an end point (Referring to Figure 5, the Gatekeeper receives an original setup message at step **502**. Which is transmitted from the endpoint **112** as it dials Gateway **104** requesting a call to endpoint **114**. See column 9, lines 10-15 and column 5, lines 63-67;)

A transport data transmitting section (Referring to Figure 5, the Gatekeeper passes the setup message to the LMU. See column 9, lines 13-14;)

A control section which (Referring to Figure 1, Load Management unit. See column 2, lines 48-49.):

Performs load balancing (Referring to Figure 1, the LMU determines which Gatekeeper of a plurality of Gatekeepers should setup and service the call based upon loading. See column 2, lines 53-65.)

Ma does not disclose *autonomously monitors a load state of another gatekeeper in said network by receiving a message from said another gatekeeper, said message comprising a load state of said another gatekeeper; upon said first message receiving section receiving said gatekeeper discovery message, refers to a load state list to determine whether said gatekeeper has the lightest load among a plurality of gatekeepers including said gatekeeper; and controls said transport data transmitting section to transmit transport data to said end point in response to the gatekeeper discovery message, when it is determined that said gatekeeper has the lightest load.*

Ma teaches a method and system for load balancing in which the system determines the availability of network resources and redirects a message based upon the loading of each gateway, availability of each gateway, or load distribution among a plurality of gateways (See

column 2, lines 61-65.) Ma does not teach the monitoring of the load state of Gatekeepers via messaging, determining the least loaded Gatekeeper, and establishing a connection based upon the least or lightest loaded Gatekeeper. However, Boudreau teaches a network switch load balancing method and apparatus which balances the load in a cluster of switches in a network. The load balancing manager **142** performs the load balancing function in response to a connection request by one of the clients $\mathbf{160_1}$ to $\mathbf{160_k}$ (Referring to Figure 1, see column 3, lines 61-63.) The load balancing manager **142** learns (autonomously monitors a load state of another gatekeeper in a the network by receiving a message from another gatekeeper) the load information of a server based upon the periodic transmission of unicast packets which advertise a server's load (See column 4, lines 43-46.) Utilizing a peer table **430** (load state list to determine whether the gatekeeper has the lightest load among a plurality of gatekeepers), the load balancing manager stores load information of its peer switches (See column 6, liens 28-29.) A server decision, which utilizes the peer table, is based on the free resource metrics of a cluster of switches (controls the transport data transmitting section to transmit transport data to the end point in response to the initialization message, when the gatekeeper has the lightest load). The server with the greatest number of available sessions and processor idle time is selected (Referring to Figure 8, see column 8, lines 7-20.)

It would have been obvious to one of ordinary skill in the art to implement the network switch load balancing of Boudreau in the H.323 system of Ma. One of ordinary skill in the art would have been motivated to do so in order to improve the intelligence of the Load Management Unit for reducing the overloading of Gatekeepers while increasing system

efficiency through informed system behavior as taught by Ma (See column 2, lines 35-40 and column 9, lines 29-34.)

Regarding claims 2 and 9 as explained in the rejection statement of claims 1 and 8, Ma and Boudreau teach all of the claim limitations of claims 1 and 8 (parent claims).

Ma does not disclose *wherein said control section controls said transport data transmitting section not to transmit data in response to the gatekeeper discovery message, when it is determined that said gatekeeper does not have the lightest load.*

Boudreau teaches a network switch load balancing method and apparatus which balances the load in a cluster of switches in a network. The load balancing manager **142** performs the load balancing function in response to a connection request by one of the clients $\mathbf{160_1}$ to $\mathbf{160_k}$ (Referring to Figure 1, see column 3, lines 61-63.) The load balancing manager decides based on the free resource metrics of a cluster of switches which server has the greatest number of available sessions and processor idle time is selected (Referring to Figure 8, see column 8, lines 7-20.) Therefore, the load balancing manager does not transmit data to the servers which were not selected (do not have the lightest load).

It would have been obvious to one of ordinary skill in the art to implement the network switch load balancing of Boudreau in the H.323 system of Ma. One of ordinary skill in the art would have been motivated to do so in order to improve the intelligence of the Load Management Unit for reducing the overloading of Gatekeepers while increasing system efficiency through informed system behavior as taught by Ma (See column 2, lines 35-40 and column 9, lines 29-34.)

Regarding claim 3 as explained in the rejection statement of claim 1, Ma and Boudreau teach all of the claim limitations of claim 1 (parent claim).

Ma does not disclose *a storage section which stores said load stat list indicative of existence of any of said plurality of gatekeepers having lighter loads than said gatekeeper; and a first control section which refers to said load state list to determine whether said gatekeeper has the lightest load among said plurality of gatekeepers including said gatekeeper, and controls said transport data transmitting section to transmit transport data to said end point in response to the gatekeeper discovery message, when it is determined that said gatekeeper has the lightest load.*

Boudreau teaches a network switch load balancing method and apparatus which balances the load in a cluster of switches in a network. The load balancing manager **142** performs the load balancing function in response to a connection request by one of the clients $\mathbf{160_1}$ to $\mathbf{160_k}$. The load balancing manager **142** learns the load information of a server based upon the periodic transmission of unicast packets which advertise a server's load (See column 4, lines 43-46.) Utilizing a peer table **430**, the load balancing manager stores load information of its peer switches (See column 6, liens 28-29.) A server decision, which utilizes the peer table, is based on the free resource metrics of a cluster of switches. The server with the greatest number of available sessions and processor idle time is selected (gatekeeper with the lightest load) (Referring to Figure 8, see column 8, lines 7-20.)

It would have been obvious to one of ordinary skill in the art to implement the network switch load balancing of Boudreau in the H.323 system of Ma. One of ordinary skill in the art would have been motivated to do so in order to improve the intelligence of the Load

Management Unit for reducing the overloading of Gatekeepers while increasing system efficiency through informed system behavior as taught by Ma (See column 2, lines 35-40 and column 9, lines 29-34.)

Regarding claims 4, 10, and 26 as explained in the rejection statement of claims 1 and 8, Ma and Boudreau teach all of the claim limitations of claims 1 and 8 (parent claims).

Ma does not disclose *a load state notice message receiving section which receives a load state notice message from another gatekeeper of said plurality of gatekeepers as a notice transmitting gatekeeper, said load state notice message including a load of said notice transmitting gatekeeper; a calculating section which calculates a load of said gatekeeper as a self-load; and a second control section which extracts the load of said notice transmitting gatekeeper from said load state notice message, and compares the extracted load and the self-load, and writes an identifier of said notice transmitting gatekeeper at least into said load state list, when the extracted load is lighter than the self-load.*

Boudreau teaches a network switch load balancing method and apparatus which balances the load in a cluster of switches in a network. The load balancing manager **142** performs the load balancing function in response to a connection request by one of the clients $\mathbf{160_1}$ to $\mathbf{160_k}$. The load balancing manager **142** learns the load information of a server based upon the periodic transmission of unicast packets which advertise a server's load and identity (See column 4, lines 43-46 and 55-61.) Utilizing a peer table **430**, the load balancing manager stores load information of its peer switches (See column 6, liens 28-29.) A server decision, which utilizes the peer table, is based on the free resource metrics of a cluster of switches comprising the local and remote servers (Referring to Figure 9, see column 54-63.) The server with the greatest number of

available sessions and processor idle time is selected (gatekeeper with the lightest load) (Referring to Figure 8, see column 8, lines 7-20.)

It would have been obvious to one of ordinary skill in the art to implement the network switch load balancing of Boudreau in the H.323 system of Ma. One of ordinary skill in the art would have been motivated to do so in order to improve the intelligence of the Load Management Unit for reducing the overloading of Gatekeepers while increasing system efficiency through informed system behavior as taught by Ma (See column 2, lines 35-40 and column 9, lines 29-34.)

Regarding claims 5, 11, and 22 (respectively) as explained in the rejection statement of claims 1 and 8, Ma and Boudreau teach all of the claim limitations of claims 1, 8, and 21 (parent claims).

Ma does not disclose *a load state request message transmitting section, wherein said second control section controls said load state request message transmitting section to transmit a load state request message with an identifier of said gatekeeper and said self-load to other gatekeepers of said plurality of gatekeepers, and wherein said other gatekeepers selectively reply by transmitting said load state notice message to said gatekeeper based on a load of said other gatekeepers.*

Boudreau teaches a network switch load balancing method and apparatus which balances the load in a cluster of switches in a network. The load balancing manager **142** performs the load balancing function in response to a connection request by one of the clients $\mathbf{160_1}$ to $\mathbf{160_k}$. The load balancing manager **142** learns the load information of a server based upon the periodic transmission of unicast packets which advertise a server's load and identity, the transmission of

which is initialized by the load balancing manager (See column 4, lines 43-46 and 55-61 and column 7, lines 33-35.) The Examiner interprets the "reply message" as other unicast packets from other switches. Utilizing a peer table **430**, the load balancing manager stores load information of its peer switches (See column 6, liens 28-29.) A server decision, which utilizes the peer table, is based on the free resource metrics of a cluster of switches comprising the local and remote servers (Referring to Figure 9, see column 54-63.) The server with the greatest number of available sessions and processor idle time is selected (gatekeeper with the lightest load) (Referring to Figure 8, see column 8, lines 7-20.)

It would have been obvious to one of ordinary skill in the art to implement the network switch load balancing of Boudreau in the H.323 system of Ma. One of ordinary skill in the art would have been motivated to do so in order to improve the intelligence of the Load Management Unit for reducing the overloading of Gatekeepers while increasing system efficiency through informed system behavior as taught by Ma (See column 2, lines 35-40 and column 9, lines 29-34.)

Regarding claims 6 and 12, further regarding claims 22 and 23, as explained in the rejection statement of claims 1, 8, and 21, Ma and Boudreau teach all of the claim limitations of claims 1, 8, and 21 (parent claims).

Ma does not disclose *a load state request message receiving section which receives said load state request message with an identifier of said other gatekeepers and the load of said other gatekeepers; and a load state notice message transmitting section, and wherein said second control section extracts the load of said other gatekeepers from said load state request message, and compares the extracted load and the load of said gatekeeper as a self-load, and controls*

said load state notice message transmitting section to transmit a load state notice message with the self-load and said identifier of said gatekeeper to said other gatekeepers, when the extracted load is not lighter than the self-load.

Boudreau teaches a network switch load balancing method and apparatus which balances the load in a cluster of switches in a network. The load balancing manager **142** performs the load balancing function in response to a connection request by one of the clients $\mathbf{160_1}$ to $\mathbf{160_k}$. The load balancing manager **142** learns the load information of a server based upon the periodic transmission of unicast packets which advertise a server's load and identity, the transmission of which is initialized by the load balancing manager (See column 4, lines 43-46 and 55-61 and column 7, lines 33-35.) The Examiner interprets the "reply message" as other unicast packets from other switches. Utilizing a peer table **430**, the load balancing manager stores load information of its peer switches (See column 6, liens 28-29.) A server decision, which utilizes the peer table, is based on the free resource metrics of a cluster of switches comprising the local and remote servers (Referring to Figure 9, see column 54-63.) The server with the greatest number of available sessions and processor idle time is selected (gatekeeper with the lightest load) (Referring to Figure 8, see column 8, lines 7-20.)

It would have been obvious to one of ordinary skill in the art to implement the network switch load balancing of Boudreau in the H.323 system of Ma. One of ordinary skill in the art would have been motivated to do so in order to improve the intelligence of the Load Management Unit for reducing the overloading of Gatekeepers while increasing system efficiency through informed system behavior as taught by Ma (See column 2, lines 35-40 and column 9, lines 29-34.)

Regarding claims 7 and 13 as explained in the rejection statement of claims 1 and 8, Ma and Boudreau teach all of the claim limitations of claims 1 and 8 (parent claims).

Ma does not disclose *wherein said second control section discards said load state request message, when the extracted load is lighter than the self-load.*

Boudreau teaches a network switch load balancing method and apparatus which balances the load in a cluster of switches in a network. The load balancing manager **142** performs the load balancing function in response to a connection request by one of the clients $\mathbf{160_1}$ to $\mathbf{160_k}$. The load balancing manager **142** learns the load information of a server based upon the periodic transmission of unicast packets which advertise a server's load and identity, the transmission of which is initialized by the load balancing manager (See column 4, lines 43-46 and 55-61 and column 7, lines 33-35.) The packets are discarded after the data has been received. The server with the greatest number of available sessions and processor idle time is selected, in which messages are discarded after they are received (Referring to Figure 8, see column 8, lines 7-20.)

It would have been obvious to one of ordinary skill in the art to implement the network switch load balancing of Boudreau in the H.323 system of Ma. One of ordinary skill in the art would have been motivated to do so in order to improve the intelligence of the Load Management Unit for reducing the overloading of Gatekeepers while increasing system efficiency through informed system behavior as taught by Ma (See column 2, lines 35-40 and column 9, lines 29-34.)

Regarding claim 14, the primary reference further teaches *wherein a load distribution is carried out to equalize a load autonomously between gatekeepers in said plurality of gatekeepers* (Referring to Figure 1, redirection of calls from one Gatekeeper to another Gatekeeper performs

the goals of load distribution and load balancing among multiple Gatekeepers. See column 5, lines 56-69.)

Regarding claim 15, the primary reference further teaches *wherein said load comprises a ratio of a number of actual registrations to a maximum number of registrations which can be registered by said gatekeeper* (Referring to Figure 1, Gatekeepers **108** and **109** act as the central point for all calls within their respective Gatekeeper zones and provide call control services to registered endpoints, each gatekeeper inherently comprises a ratio of actual to maximum registrations since each gatekeeper comprises a theoretical maximum number of supportable connections. See column 5, lines 19-21.)

Regarding claim 16 as explained in the rejection statement of claim 1, Ma and Boudreau teach all of the claim limitations of claim 1 (parent claim).

Ma does not disclose *wherein said second control section controls said load state request message transmitting section to periodically transmit said load state request message.*

Boudreau teaches a network switch load balancing method and apparatus which balances the load in a cluster of switches in a network. The load balancing manager **142** performs the load balancing function in response to a connection request by one of the clients $\mathbf{160_1}$ to $\mathbf{160_k}$. The load balancing manager **142** learns the load information of a server based upon the periodic transmission of unicast packets which advertise a server's load and identity, the transmission of which is initialized by the load balancing manager (See column 4, lines 43-46 and 55-61 and column 7, lines 33-35.)

It would have been obvious to one of ordinary skill in the art to implement the network switch load balancing of Boudreau in the H.323 system of Ma. One of ordinary skill in the art

would have been motivated to do so in order to improve the intelligence of the Load Management Unit for reducing the overloading of Gatekeepers while increasing system efficiency through informed system behavior as taught by Ma (See column 2, lines 35-40 and column 9, lines 29-34.)

Regarding claim 17 as explained in the rejection statement of claim 1, Ma and Boudreau teach all of the claim limitations of claim 1 (parent claim).

Ma does not disclose *wherein said control section controls said transport data transmitting section to transmit transport data to said end point in response to the gatekeeper discovery message only when it is determined that said gatekeeper has the lightest load.*

Boudreau teaches a network switch load balancing method and apparatus which balances the load in a cluster of switches in a network. The load balancing manager **142** performs the load balancing function in response to a connection request by one of the clients $\mathbf{160_1}$ to $\mathbf{160_k}$. The load balancing manager **142** learns the load information of a server based upon the periodic transmission of unicast packets which advertise a server's load (See column 4, lines 43-46.) Utilizing a peer table **430**, the load balancing manager stores load information of its peer switches (See column 6, liens 28-29.) A server decision, which utilizes the peer table, is based on the free resource metrics of a cluster of switches. The server with the greatest number of available sessions and processor idle time is selected (gatekeeper with the lightest load) (Referring to Figure 8, see column 8, lines 7-20.)

It would have been obvious to one of ordinary skill in the art to implement the network switch load balancing of Boudreau in the H.323 system of Ma. One of ordinary skill in the art would have been motivated to do so in order to improve the intelligence of the Load

Management Unit for reducing the overloading of Gatekeepers while increasing system efficiency through informed system behavior as taught by Ma (See column 2, lines 35-40 and column 9, lines 29-34.)

Regarding claim 18, the primary reference teaches *wherein said first gatekeeper is independent of said second gatekeeper and shares information with said second gatekeeper* (Referring to Figure 1, redirection of calls from one Gatekeeper to another Gatekeeper (independent first and second gatekeepers) performs the goals of load distribution and load balancing among multiple Gatekeepers (sharing information). See column 5, lines 56-69.)

Regarding claim 19 as explained in the rejection statement of claim 1, Ma and Boudreau teach all of the claim limitations of claim 1 (parent claim).

Ma does not disclose *wherein said first and second gatekeepers autonomously determine which of said first and second gatekeepers has a lightest load.*

Boudreau teaches a network switch load balancing method and apparatus which balances the load in a cluster of switches in a network. The load balancing manager **142** performs the load balancing function in response to a connection request by one of the clients $\mathbf{160_1}$ to $\mathbf{160_k}$. The load balancing manager **142** learns the load information of a server based upon the periodic transmission of unicast packets which advertise a server's load (See column 4, lines 43-46.) Utilizing a peer table **430**, the load balancing manager stores load information of its peer switches (See column 6, liens 28-29.) A server decision, which utilizes the peer table, is based on the free resource metrics of a cluster of switches. The server with the greatest number of available sessions and processor idle time is selected (gatekeeper with the lightest load) (Referring to Figure 8, see column 8, lines 7-20.)

It would have been obvious to one of ordinary skill in the art to implement the network switch load balancing of Boudreau in the H.323 system of Ma. One of ordinary skill in the art would have been motivated to do so in order to improve the intelligence of the Load Management Unit for reducing the overloading of Gatekeepers while increasing system efficiency through informed system behavior as taught by Ma (See column 2, lines 35-40 and column 9, lines 29-34.)

Regarding claim 21 as explained in the rejection statement of claim 1, Ma and Boudreau teach all of the claim limitations of claim 1 (parent claim).

Ma does not disclose *a load state request message transmitting and receiving section for transmitting a load state request message to said another gatekeeper in said plurality of gatekeepers and receiving a load state request message from said another gatekeeper; and a load state notice message transmitting and receiving section for transmitting a load state notice message from said another gatekeeper.*

Boudreau teaches a network switch load balancing method and apparatus which balances the load in a cluster of switches in a network. The load balancing manager **142** performs the load balancing function in response to a connection request by one of the clients $\mathbf{160_1}$ to $\mathbf{160_k}$. The load balancing manager **142** learns the load information of a server based upon the periodic transmission of unicast packets (load state request message) which advertise a server's load and identity, the transmission of which is initialized by the load balancing manager (See column 4, lines 43-46 and 55-61 and column 7, lines 33-35.) The Examiner interprets the "reply message" as other unicast packets from other switches (load state notice message). Therefore, the Examiner equates the load state request message and load state notice messages as logically

equivalent since both messages identify the source and load of the designated Gatekeeper. Utilizing a peer table **430**, the load balancing manager stores load information of its peer switches (See column 6, liens 28-29.) A server decision, which utilizes the peer table, is based on the free resource metrics of a cluster of switches comprising the local and remote servers (Referring to Figure 9, see column 54-63.) The server with the greatest number of available sessions and processor idle time is selected (gatekeeper with the lightest load) (Referring to Figure 8, see column 8, lines 7-20.)

It would have been obvious to one of ordinary skill in the art to implement the network switch load balancing of Boudreau in the H.323 system of Ma. One of ordinary skill in the art would have been motivated to do so in order to improve the intelligence of the Load Management Unit for reducing the overloading of Gatekeepers while increasing system efficiency through informed system behavior as taught by Ma (See column 2, lines 35-40 and column 9, lines 29-34.)

5. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma in view of Boudreau further in view of Kliland et al. (US 6,738,383) hereinafter referred to Kliland.

Regarding claims 24 and 25 as explained above in the rejection of claim 1, Ma discloses all the limitations of claim 1 (parent claim).

Ma does not disclose exchanging messages between gatekeepers as defined by the H.323 recommendation (the load state request message comprises a position data request message (LRQ) as defined in the H.323 recommendation, and wherein the load state notice message comprises a position data response message (LCF) as defined in the H.323 recommendation.)

Kliland teaches an arrangement for distributing and dispatching traffic in a network, especially H.323 generated traffic, in which "the lightweight gatekeeper has knowledge of valid real gatekeepers' load and, on this basis, the lightweight gatekeeper distributes the traffic towards the least loaded gatekeeper" (See column 3, lines 9-12.) The notion of selecting the lightest or least loaded gatekeeper is a well-known concept in H.323 networks.

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the system of Ma utilizing the H.323 recommendation. One of ordinary skill in the art at the time of the invention would have been motivated to do so in order to comply with the well-known standard of H.323.

Response to Arguments

6. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L. Mills whose telephone number is 571-272-3094. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Seema S. Rao
SEEMA S. RAO 3/1/07
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Donald L Mills

DLM

February 2007